

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554**

In the Matter of	)	
	)	
Jurisdictional Separations and	)	CC Docket No. 80-286
Referral to the Federal-State Joint Board	)	

**COMMENTS OF SBC COMMUNICATIONS INC.**

SBC Communications Inc., on behalf of itself and its subsidiaries (collectively SBC), hereby submits its Comments on the “*Glide Path*” policy paper filed with the Commission on December 19, 2001 by the state members of the Federal-State Joint Board on Jurisdictional Separations (Joint Board).<sup>1</sup> The *Glide Path* paper presents various alternatives for reforming the Commission’s jurisdictional separations regime. Each of these alternatives is premised on the assumption that the separations process will remain in place once the current five-year freeze of the Part 36 separations rules ends in 2006.<sup>2</sup>

SBC finds it difficult to envision that there will be any need to maintain the jurisdictional separations regime a full decade after all telecommunications markets were opened to competition by the Telecommunications Act of 1996. Indeed, in increasingly competitive markets, the jurisdictional separations process will distort the market by sending improper pricing signals and maintaining regulatory arbitrage opportunities. Thus, rather than seeking to reform a regulatory relic, the Commission should aim to eliminate the jurisdictional separations process as competition takes hold in all telecommunications markets.

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<sup>1</sup> Public Notice, “*Glide Path* Policy Paper Filed by State Members of Joint Board on Jurisdictional Separations,” DA 01-2973, released December 20, 2001 (*Glide Path*).

<sup>2</sup> *Jurisdictional Separations Reform and Referral to the Federal-State Joint Board*, CC Docket No. 80-286, Report and Order, FCC 01-162 (rel. May 22, 2001).

## **I. Jurisdictional Separations is a Legacy Regulatory Mechanism that No Longer Serves a Meaningful Purpose**

The *Glide Path* paper is an attempt by State Members of the Separations Joint Board to craft a set of goals to guide comprehensive reform of the jurisdictional separations process so as to reflect the existing, and future, telecommunications environment.<sup>3</sup> In particular, the *Glide Path* paper proposes the following broad goals for jurisdictional separations reform:

1. Separations should have some meaningful relationship to how prices are actually set.
2. Separations should be simpler (i.e., easier to administer and audit), less costly, able to produce reasonably accurate results, capable of addressing new architectures and technologies, able to evolve with competitive markets, and provide for cost responsibility to follow jurisdictional responsibility.
3. Less emphasis should be placed on the accuracy of cost allocations and on obtaining contribution to loop costs from interstate services.

While credit must be given to the states for their attempt to analyze and initiate discussions about the future of separations, the analytical path forward they propose should be modified. The separations process is a legacy regulatory mechanism designed in and for an era in which local and long distance services were provided by monopoly carriers, and the predominant regulatory tools for promoting infrastructure deployment were rate of return regulation, carrier of last resort obligations and implicitly subsidized local service prices. The separations process was an “enabling device,” which made it possible for these regulatory tools to operate. Indeed, the *Glide Path* paper acknowledges this historical fact:

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<sup>3</sup> The primary purpose of the Part 36 jurisdictional separations requirements, which apply only to incumbent LECs (ILECs), is to determine whether a local exchange carrier’s costs of providing regulated services are to be recovered through its rates for intrastate services or through its rates for interstate services. Historically, the separations process has been used to implicitly subsidize rates for local services through contributions from interstate rates.

“Separations has, throughout its history, been viewed as a way to help keep basic service rates low by assigning costs to the interstate jurisdiction, where those costs would be recovered through (usage-based) interstate toll charges.”

There is no doubt that the separations process was constructed to function as an implicit subsidy mechanism. The historical fixed vs. variable pricing paradigm complemented that construction by relying upon a regulatory, rather than a market place, definition of “essential vs. discretionary” services. The Commission has recognized that these types of regulatory tools must be reformed and ultimately eliminated if the benefits of fully competitive markets are to be realized. State members of the Separations Joint Board should recognize that there is no longer a role for separations in the ratemaking process, implicit subsidies should be replaced with explicit cost recovery mechanisms, prices should be set by the market place, and, at most, a price cap mechanism is required until markets satisfy established competitive triggers.<sup>4</sup> Instead of focusing resources on regulatory mechanisms designed for a monopoly environment, state regulators should move quickly and deliberately to ensure that their regulatory frameworks promote the national policy objectives Congress envisioned when it adopted the 1996 Act and thus complement the Commission’s objectives and regulatory framework.

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<sup>4</sup> Regardless, given the rapid pace of technological change and the evolution of the market place, it is difficult to imagine the need for separations regulations a full ten years after adoption of the 1996 Act.

## **II. Conclusion**

The ultimate goal of the Commission and the Separations Joint Board should be to eliminate the jurisdictional separations process.

Respectfully Submitted

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